

## Photo ID Injunction Q and A

March 9, 2012

On Tuesday, March 6, 2012, Dane County Circuit Court Judge David Flanagan issued an order to cease immediately any effort to enforce or implement the photo identification requirements of 2011 Wisconsin Act 23, pending trial of the case and further order of the court. On March 9, 2012, the attorneys who represent the G.A.B. and Governor Walker have filed a court motion to stay the injunction and permit compliance with Act 23.

Until the court modifies its order or another court order is issued, the G.A.B has assembled questions posed by county and municipal clerks with respect to what provisions of 2011 Act 23 are affected by the injunction. The questions and answers are set out below. Following the Q & A is a list of recent statutory changes that *are not* affected by the injunction.

Questions	Answers
Can clerks and election inspectors still ask to see photo ID?	No. The order strictly prohibits a clerk or inspector from enforcing the law and asking an elector to produce photo ID in order to receive a ballot.
Is there any time while the injunction is in place that photo ID can be required?	No.
What if, during the injunction, an absentee voter makes a request for ballots for all elections in a calendar year (and, therefore, does not provide photo I.D.), and then the injunction is lifted?	The voter continues to receive ballots for the duration of the request, even though they have not provided photo ID. If the law is fully in effect when they reapply, they will be required to provide photo ID before receiving ballots.
If a request was postmarked before the injunction and no photo ID accompanied the request, do I have to obtain the photo ID from the voter before sending the voter a ballot?	If you are acting on an absentee ballot request now, while the injunction is in effect, you cannot ask for photo ID, regardless of when the request was postmarked. The order strictly prohibits enforcing the law.
Will photo ID indicators still show up on absentee ballot reports and mailing labels?	Yes. Please disregard the Photo ID indicators on absentee ballot reports and mailing labels. While they contain information regarding photo ID, that information should be disregarded until and unless the law is being enforced.
What if an in-person voter (either in the clerk's office or at the polling place) offers their ID voluntarily?	Politely tell the voter that due to a court order photo ID is not currently required.
What if a by-mail absentee voter sends a copy of their photo ID with their absentee ballot request?	Mark "Photo ID Provided" in SVRS. If SVRS is not used for absentee, mark "Photo ID Provided" in the voter record (reliers provide this information to their provider) and record

	receipt of the photo ID on the absentee ballot log. Retain the ID for the same retention period as the absentee ballot request--90 days after the election, 22 months after a federal election. (The 90 days or 22 months is from the date of the latest election for which the request was made.)
Can we use up “old” certificate envelopes since photo ID isn’t currently required?	You may use old certificate envelopes only for the duration of the injunction. However; the envelope must reflect the 28 day residency requirement and bear the “§ 7.515” statement.
Previously, there were 3 situations in which a voter could vote provisionally. For as long as the injunction is in place, are there now only 2 situations?	Yes. The only situations in which a voter may vote provisionally are 1) “POR Required” appears next to the voter’s name on the poll list and the voter cannot produce proof of residence, 2) A voter registering on election day indicates he or she has a WI DL, but can’t or won’t provide the number.
Does provisional voter information need to be recorded on the Provisional Ballot Reporting Form (GAB-123r) and entered into the Provisional Ballot Tracker?	Yes.
I ordered posters and other photo ID materials from G.A.B. Will I receive them?	No. The G.A.B. has ceased dissemination of any photo ID materials for the duration of the injunction.
I have photo ID brochures that I have been giving to voters. Should I stop handing those out?	Yes. Please discontinue distribution of photo ID materials. Please also discontinue any public outreach efforts regarding photo ID.
Is the G.A.B. still going to provide information to the public about the photo ID law?	GAB is suspending all training and outreach efforts, as well as dissemination of photo ID advertising.
I have photo ID information posted to my county or municipal website. Should I remove that information?	Either remove it or place a disclaimer on your website “Photo ID requirements have been suspended due to court order.”
I have signage at my polling place that refers to photo ID requirements. Should they be removed?	Yes. Signs advising voters to “State, Show, Sign” or “Have ID Ready” should be removed.
May I continue to train my election inspectors on the photo ID provisions set out in 2011 Act 23, even though currently Photo ID is not required in order to receive a ballot?	Yes. You may continue to train your inspectors on the photo ID provisions. However, you must be clear that photo ID is not currently required and they may not require or even ask a voter to produce photo ID until the injunction is lifted.

The following provisions put in place by 2011 Act 23 and other legislation remain in effect and *are not* influenced by the injunction.

### **Voter Registration**

- When registering to vote, voters must provide their former address.
- Using a corroborator in lieu of proof of residence is eliminated.
- Election day registrations must be entered into SVRS no later than 45 days after a general election and no later than 30 days after any other election.
- Proof of residence is required when registering at the polling place, in the clerk's office after the close of open registration, and when a first-time voter registers by mail.
- Late registration ends at 5 p.m. or close of business, whichever is later on the Friday before Election Day. No voter registration may occur on the Saturday, Sunday or Monday immediately before an election.
- University, college and technical college students may use their photo university, college or technical college ID, together with a fee payment receipt as proof of residence when registering to vote.
- University, college and technical college students may use their photo university, college or technical college ID, together with a certified list of students residing in student housing as proof of residence.

### **Absentee Voting**

- In-person absentee voting begins the 3<sup>rd</sup> Monday before the election.
- In-person absentee voting ends at 5:00 p.m. or close of business, whichever is later, on the Friday before the election. No absentee voting may occur on the Saturday, Sunday or Monday immediately before an election.
- Special Voting Deputies may also be sent to Qualified Adult Family Homes and Qualified Residential Care Apartment Complexes.

- Municipal clerks may only fax or email ballots to military and overseas voters who request to receive a ballot in that manner. No other voter may receive ballots by fax or email.
- Municipal Clerks must discontinue sending ballots to voters who have requested ballots for a calendar year but do not return a ballot. The voter must be sent a 5-day notice of discontinuance.
- Municipal clerks send 30-day notice to indefinitely confined voters who do not return a ballot after a spring or general election.

### **Post-Election Activities**

- Municipal clerks are required to be available to receive late-arriving absentee ballots and provisional ballot information until 4:00 p.m. on the Friday following the election.
- Municipal Boards of Canvassers are required to process and count late-arriving absentee and provisional ballots.

### **Miscellaneous**

- Straight-party vote option at partisan elections is eliminated, except for federal write-in ballots (FWAB).
- Qualifications for voting include residency for 28 consecutive days.
- Voters are required to sign the poll list unless prohibited from doing so because of a disability.
- G.A.B may no longer appoint statewide SRDs.
- Election inspectors must verify the name and address on proof of residence offered by a first-time voter (“POR Required” appears on poll list) is the same as on the poll list.

If further questions arise, please contact the Help Desk at 608-261-2028 or [gab@wi.gov](mailto:gab@wi.gov).